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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 131231999-4319-01]

RIN 0648-BD87

Extension of Temporary Rule that Established Separate Annual Catch Limits and Accountability Measures for Blueline Tilefish in the South Atlantic Region

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; emergency action extended.

SUMMARY: NMFS issues this temporary rule to extend the expiration date of emergency measures implemented to reduce the amount of blueline tilefish that may be harvested in the exclusive economic zone (EEZ) of the South Atlantic. NMFS published an emergency rule on April 17, 2014, to remove the blueline tilefish portion from the deep-water complex annual catch limit (ACL) and establish separate commercial and recreational ACLs and accountability measures (AMs) for blueline tilefish. The intent of this rulemaking is to extend the measures implemented in the emergency action to reduce overfishing of blueline tilefish in the South Atlantic while the South Atlantic Fishery Management Council (Council) develops

permanent management measures.

DATES: The expiration date for the temporary rule published at 79 FR 21636, April 17, 2014, is extended from October 14, 2014, through April 18, 2015, unless NMFS publishes a superseding document in the Federal Register.

ADDRESSES: Electronic copies of the documents in support of this temporary rule may be obtained from the Southeast Regional Office Web site at

http://sero.nmfs.noaa.gov/sustainable_fisheries/s_atl/sg/2014/act/index.html.

FOR FURTHER INFORMATION CONTACT: Rick DeVictor, Southeast Regional Office, NMFS, telephone: 727-824-5305, email: Rick.DeVictor@noaa.gov.

SUPPLEMENTARY INFORMATION: NMFS and the Council manage South Atlantic snapper-grouper species, including blueline tilefish, under the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP). The Council prepared the FMP and NMFS implements the FMP through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The Magnuson-Stevens Act provides the legal authority for the promulgation of emergency regulations under section 305(c) (16 U.S.C. 1855(c)).

Background

At its December 2013 meeting, the Council requested that NMFS promulgate emergency regulations to reduce overfishing of blueline tilefish and rebuild the blueline tilefish stock, based on the most recent stock assessment conducted for blueline tilefish in 2013, while permanent management measures and regulations are being developed through Amendment 32 to the FMP. The need for this emergency action is to minimize adverse biological effects to the blueline tilefish stock and adverse socio-economic effects to fishermen and fishing communities that utilize the blueline tilefish portion of the snapper-grouper fishery. The Council and NMFS determined that any short-term adverse socio-economic effects of the temporary measures would be justified to minimize long-term reductions in harvest that may be required if levels of unsustainable harvest continued to reduce the biomass of the blueline tilefish stock. Accordingly, on April 17, 2014, NMFS published a temporary rule under the Magnuson-Stevens Act to implement emergency regulations for the blueline tilefish stock in the South Atlantic (74 FR 21636) and requested public comment. That temporary rule is effective through October 14, 2014.

The measures contained in the temporary rule and this extension, remove blueline tilefish from the deep-water complex and establish separate commercial and recreational ACLs and AMs for blueline tilefish in the EEZ of the South Atlantic. The temporary rule and

this extension implement a blueline tilefish total (commercial and recreational) ACL of 224,100 lb (101,650 kg), round weight. The commercial ACL for blueline tilefish is set at 112,207 lb (50,896 kg), round weight, and the recreational ACL is set at 111,893 lb (50,754 kg), round weight. The deep-water complex (composed of yellowedge grouper, silk snapper, misty grouper, queen snapper, sand tilefish, black snapper, and blackfin snapper) ACL remains at current levels, except with the blueline tilefish portion of the complex ACL of 631,341 lb (286,371 kg), round weight, removed from the complex. Thus, for the deep-water complex without blueline tilefish, the commercial ACL is 60,371 lb (27,384 kg), round weight, and the recreational ACL is 19,313 lb (8,760 kg), round weight.

The temporary rule and this extension also establish in-season AMs for blueline tilefish to prevent these catch limits from being exceeded. If commercial landings for blueline tilefish reach or are projected to reach the commercial ACL, NMFS will file a notification with the Office of the Federal Register to close the commercial sector for blueline tilefish for the remainder of the fishing year. On and after the effective date of such a notification, all sale or purchase of blueline tilefish is prohibited and harvest or possession of blueline tilefish in or from the South Atlantic EEZ is limited to the bag and possession limit. This bag and possession limit applies in the South Atlantic on board a vessel for which a valid Federal

commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such species were harvested, i.e., in state or Federal waters. During the 2014 commercial fishing season, through AMs implemented in the emergency rule, NMFS closed the commercial sector for blueline tilefish on June 23, 2014, when NMFS determined the commercial ACL for blueline tilefish was projected to be met (79 FR 35292, June 20, 2014). The commercial sector will reopen on January 1, 2015.

If recreational landings for blueline tilefish reach or are projected to reach the recreational ACL, NMFS will file a notification with the Office of the Federal Register to close the recreational sector for blueline tilefish for the remainder of the fishing year. On and after the effective date of such notification, the bag and possession limit of blueline tilefish in or from the South Atlantic EEZ would be zero. This bag and possession limit would also apply in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such species were harvested, i.e., in state or Federal waters.

The Council requested an extension of the temporary rule at its September 2014 meeting, and via an October 2, 2014, letter to NMFS, to ensure that management measures remain in effect for blueline tilefish to reduce overfishing while more permanent measures are

developed through Amendment 32 to the FMP. Section 305(c)(3)(B) of the Magnuson-Stevens Act allows for emergency regulations to be extended for one additional period of 186 days provided that the public has had an opportunity to comment on the emergency measures and the Council is actively preparing a plan amendment to address the overfishing on a permanent basis. If approved, Amendment 32 is scheduled to be implemented early in the 2015 fishing year.

Comments and Responses

Section 305(c)(3)(B) of the Magnuson-Stevens Act requires that the public has an opportunity to comment on emergency measures after the regulation is published and the Council is actively preparing a plan amendment to address overfishing on a permanent basis. NMFS solicited public comments in the April 17, 2014, temporary rule but received no comments on the temporary rule or the emergency measures.

Classification

This action is issued pursuant to section 305(c) of the Magnuson-Stevens Act, 16 U.S.C. 1855(c). The Assistant Administrator for Fisheries, NOAA (AA), has determined that the emergency measures this temporary rule extends are based upon the best scientific information available, are necessary for the conservation and management of the blueline tilefish component of the snapper-grouper fishery and are consistent with the Magnuson-Stevens Act and other applicable laws. The Council is

developing Amendment 32 to establish long-term measures to end overfishing of South Atlantic blueline tilefish. Amendment 32, if approved, is not expected to become effective until the 2015 fishing year.

This temporary rule has been determined to be not significant for purposes of Executive Order 12866.

Because prior notice and opportunity for public comment are not required for this rule by 5 U.S.C. 553 or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq. are inapplicable. Accordingly, no Regulatory Flexibility Analysis is required and none has been prepared.

The AA finds good cause to waive the requirements to provide prior notice and opportunity for public comment pursuant to the authority set forth in 5 U.S.C. 553(b)(B). Providing prior notice and opportunity for public comment on this action would be contrary to the public interest. This rule would continue emergency measures implemented by the April 17, 2014, temporary rule, for not more than an additional 186 days beyond the current expiration date of October 14, 2014. The conditions prompting the initial temporary rule still remain, and more permanent measures to be completed through Amendment 32 have not yet been approved or implemented. Failure to extend these temporary measures, would result in additional overfishing of the South Atlantic blueline tilefish stock, which is contrary to the

public interest and in violation of National Standard 1 of the Magnuson-Stevens Act.

For the reasons listed above, the AA also finds good cause to waive the 30-day delay in effectiveness of the action under 5 U.S.C. 553(d)(3).

Authority: 16 U.S.C. 1801 et seq.

Dated: October 6, 2014

Samuel D. Rauch III,
Deputy Assistant Administrator for Regulatory Programs,
National Marine Fisheries Service.

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